

United States District Court
For the District of New Hampshire

Petitioner Dominic Ali

6/24/13

v.

Defendant Warden, Northern Correction Facility

Docket NO. 1:12-cv-00185-DL

Petitioner's Motion For Summary Judgment

Now Comes, Dominic Ali, SV, Juris, respectfully requests this Honorable Court to grant this motion for the following reason states below;

The petitioner has a petition for writ of habeas corpus doc. no 1) filed pursuant to 28 U.S.C 2254, with this Court, Claiming violations of his Constitutional Rights the Fifth, 4th and the 14th Amendment of the United States.

This matter is before the Court for preliminary review to determine whether or not the claims raised in the petition are facially valid and may proceed. See Rule 4 of the Governing section 2254 cases in the United States District Courts.

The petitioner has filed an Amended Petition and an addendum to the Petition (doc. nos. 14 and 15) in response to this Court's order directing him to show that he had exhausted his state court remedies as to the claims asserted in his petition.

Report and recommendation issued by this Court May 2, 2013, doc. no. 17) the petition shall be served upon the defendant, who shall file an answer or otherwise plead within thirty (30) days.

The petitioner was arrested on Feb 4th, 2008, and was charged with Domestic violence related crimes allege simple assault one count, False imprisonment one count and obstruction to report a crime one count. All charges of those as misdemeanors offenses.

After reviewing the petitioner's record, the State discovered a conviction of (DVP) contrary to RSA 173-B:9, the State upgraded the offenses to felonies.

The petitioner filed a motion to dismiss indictment of felonies and request a trial, but the Court (Abramson J.) denied his motion. The State files with full recklessness and discriminatory conduct of prejudice motivated by racial bias, divide single

indictment into multiple count which result in jury confusion and its primary purpose or effect is to appeal to a juror's sympathies, arouse its sense of horror, provoke its instinct to punish, or trigger other mainsprings of human action that may cause a jury to base its decision upon something other than the established propositions in a case - that is more like deliberate deception of the Court and the jurors in a criminal case.

The petitioner was tried by his incompetent assistance of Counsel/s from the N.H. Public Defender's Office in the Northern District of the Hillsborough County Superior Court (James Barry) on September 26, 2008. The trial Court dismissed one count of class B felonies and two misdemeanors. The jury convicted the petitioner on both counts of second degree assault and two misdemeanors. The court (Barry J.) sentence the petitioner to six to ten years imprisonment.

On Dec 13, 2010, the "NHSC" affirmed the petitioner's case in part and the state agrees that the Court should vacate one of the petitioner's indictment of second degree assault count under ground of double jeopardy, after its primary purpose to the jury is done.

The May 2, 2013, report and recommendation doc. No 17) which remains pending, listed nine claims with supports, asserted by the petitioner in the 2254 petition, this Court further identified claims 5 and 6(h) as unexhausted, this court further granted the petitioner leave to file motion to drop claims that unexhausted and restate claims 9, which the Court had previously dismissed. In response to the May 2, 2013, order (doc. no. 16), that motion should be granted, and the petition 2254 may proceed by the Honorable Court order.

The district Court Judge further directed the defendant to address, in its answer or other response to the petition, claims 2-4, 6(a-g), and 7-9. See, Rule 4.

Please be advised, under the Rule Governing Habeas Corpus Cases under section 2254, all copies of the petition case has been filed to the AG Office for the record.

The petitioner objects to the defendant request for sixty days to file motion for Summary Judgment.

The defendant had more than (365) days to give this Court an informed response and access to the relevant documents associated with this case.

The petitioner is challenging the improper, unethical or illegal behavior engaged in by the government in the prosecution of a criminal defendant.

The petitioner is aware of the defendant factual entrapment, harassment, confusion and other unfair prejudice. The defendant from the start of this case, keeps constructively denies, despite, and jeopardizes the petitioner's factual allegation to his unconstitutional conviction. Sept, 25, 26, 2008.

The neutrality requirement helps to guarantee life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of facts or the law. citation omitted.

The defendant repeatedly and consistently disrespecting the judicial proceeding and the Court intelligently by confusions. As result, the petitioner is currently incarcerated six to ten years at the New Hampshire State Prison.

Conclusion

The petitioner Dominic Ali, respectfully moves this Honorable Court to set an evidentiary hearing as is this court deems just, based on the undisputed fact on the petition 2254, the petitioner is entitled to judgment as a matter of law.

Certificate of Service

I, Dominic Ali, hereby certify that a copy of this motion has been forwarded this day 6/24/2013, first class mail postage address to the Attorney General's Office.

Dominic Ali

Dominic Ali 81829

138 East Milan Road

Berlin, NH 03510

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Angela Poulin

June 24, 2013

